

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

**UNITED STATES OF AMERICA,  
PLAINTIFF**

**CIVIL ACTION No. 6:09-cv-00054**

**vs.**

**ORDER**

**CERTAIN VISUAL DEPICTIONS  
OF NUDE MINORS, ET AL.,  
DEFENDANTS**

**JUDGE NORMAN K. MOON**

The docket in this matter has remained inactive since August 19, 2011, when the parties conducted a settlement conference, with no further report to the court. Rule 41(b) of the Federal Rules of Civil Procedure provides that an action may be dismissed “[i]f the plaintiff fails to prosecute . . . .” “A district court may dismiss an action for lack of prosecution, either upon motion by a defendant pursuant to Federal Rule of Civil Procedure 41(b) or on its own motion.” *McCargo v. Hedrick*, 545 F.2d 393, 396 (4th Cir. 1976). In addition to the authorization provided by Rule 41(b), a district court retains an “inherent power” to dismiss for failure to prosecute. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962).

Accordingly, it is hereby ordered that this case shall be and hereby is **DISMISSED WITHOUT PREJUDICE** for plaintiff’s failure to prosecute.\*

The Clerk of this Court is directed to certify copies of this order to all counsel of record.

Entered this 25th day of February, 2013.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE

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\* Paragraph 4 of the pretrial order entered in this matter on July 27, 2010, states that, “[i]f the case settles before trial and the court does not receive a proposed final order within 30 days after the court received oral or written notification of the settlement, the court will dismiss the case with prejudice.”